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December 12, 1991

001676LB

John Dugdale, Esq.
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Re: American Creosote Site

Dear Mr. Dugdale:

This letter is submitted on behalf of Stallworth Timber Company, Inc. (Stallworth), and follows up on one specific matter that was raised at the meeting between Stallworth and representatives of EPA and DOJ on December 4, 1991. At the outset, Stallworth wishes to express its appreciation for the time put aside to consider the merits of the issues discussed. I would also like to express my personal appreciation for the manner in which the meeting was conducted; you and your colleagues were, at all times, courteous and responsive.

There were several documents and/or information which Stallworth committed to provide EPA as quickly as possible. These will be forthcoming shortly. In addition, towards the end of the meeting we discussed whether EPA would proceed to issue a Special Notice letter to Stallworth with regard to performance of the RI/FS at the American Creosote Site. As you know, Stallworth has communicated to EPA that it is financially unable to undertake performance of the RI/FS, which EPA estimated will cost in the neighborhood of \$1 million. This inability to pay is the same critical issue underlying Stallworth's earlier determination that it could not undertake to perform the removal actions

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contemplated by the Section 106 Order issued to it by EPA in 1989.

In recognition of Stallworth's position, including the substantial documentation regarding Stallworth's financial condition that has been provided to EPA and DOJ over the course of the past several weeks (as well as the substantial financial information provided to EPA at the time the Order was issued), you inquired as to whether Stallworth would waive the issuance of Special Notice. As I understand it, EPA would thereby avoid the formality of issuing Special Notice where, as here, EPA has concluded that the prospective Special Notice recipient would be unable to respond affirmatively.

I hereby confirm Stallworth's position that it would be financially unable to perform the contemplated RI/FS. Accordingly, having no wish to put EPA through a meaningless and time-consuming exercise, Stallworth hereby waives whatever rights it may have to receive Special Notice regarding the RI/FS.

If you have any questions regarding the content of this letter, or regarding any related matter, please do not hesitate to contact me. Thank you for your cooperation and understanding.

Sincerely yours,



Robert A. Matthews

cc: Angela O'Connell
Dennis Stallworth

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